

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

1.526 ACRES OF LAND, MORE OR LESS,
SITUATED IN HIDALGO COUNTY,
TEXAS; AND OSCAR GARZA, ET AL.,

Defendant.

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CASE NO. 7:08-CV-319
(Lead Case)

CASE NO. 7:08-CV-022
(Member Case)

**STIPULATION FOR ORDER ESTABLISHING JUST COMPENSATION AND
DISTRIBUTING FUNDS ON DEPOSIT IN THE REGISTRY OF THE COURT**

On January 30, 2008, Civil Action No. 7:08-cv-022 commenced with the filing of a Complaint (Docket No. 1 in 7:08cv-022) and Declaration of Taking (Docket No. 2 in 7:08-cv-022) in this Honorable Court in the name of the United States of America for the acquisition of certain interests in land identified as Tract RGV-MCS-1013 situated in Hidalgo County, Texas. On March 14, 2008, \$100.00 was deposited into the Court's Registry (Docket No. 7 in 7:08-cv-022) as estimated just compensation. On January 30, 2008, the United States of America filed with the Court its Ex Parte Motion for Order for Immediate Delivery of Possession (Docket No. 5 in 7:08-cv-022). On March 25, 2008, this Court entered its Order granting possession of the acquired Tract RGV-MCS-1013 (Docket No. 11 in 7:08-cv-022) and all persons in possession or control of the interests taken in said properties were ordered by this Court to allow access to the United States of America for the purposes identified in the Declaration of Taking.

On November 5, 2008, Civil Action No. 7:08-cv-319 commenced with filing of a Complaint (Docket No. 1 in 7:08-cv-319) and Declaration of Taking (Docket No. 2 in 7:08-cv-319) in this Honorable Court in the name of the United States of America (hereinafter "United States") for the acquisition of certain interests in land identified as Tract RGV-MCS-1013 situated in Hidalgo County Texas. On November 6, 2008, \$13,100.00 was deposited into the Court's Registry (Docket No. 4 in 7:08-cv-319) as estimated just compensation.

On October 9, 2012, the United States filed its Unopposed Motion to Consolidate (Docket No. 18 in 7:08-cv-022; Docket No. 13 in 7:08-cv-319) which stated that based on new surveys and title examinations of Tract RGV-MCS-1013 ("Subject Properties") the Subject Properties were actually all within a single larger parcel owned by the same individuals, Oscar Garza and Noralinda G. Garza. Therefore, the United States requested the Court to consolidate Civil Actions Nos. 7:08-cv-022 and 7:08-cv-319. On October 9, 2012, the Court entered its Order Consolidating Civil Action Nos. 7:08-cv-022 and 7:08-cv-319 making Civil Action 7:08-cv-319 the Lead Case (Docket No. 14 in 7:08-CV-319 and Docket No. 19 in 7:08-cv-022).

On February 8, 2013, the United States filed its Amendment to Declaration of Taking (Docket No. 17 in 7:08-cv-319, hereinafter "Declaration, as amended") and its Amendment to Complaint in Condemnation (Docket No. 16 in 7:08-cv-319, hereinafter "Complaint, as amended") to clarify the description of the acquired Tract RGV-MCS-1013 and the accompanying plat to reflect accurately the results of a final survey of said land received after institution of this proceeding; to clarify the estate being taken in the acquired Tract RGV-MCS-1013 in order to assure landowners that water distribution and drainage systems are not being

acquired; and to add as defendants all parties interested in the acquired Tract RGV-MCS-1013 who were identified in title examination results received after institution of this proceeding.

On July 28, 2014, OSCAR GARZA and NORALINDA G. GARZA (herein referred to as "Defendants"), reached an agreement with the United States as to just compensation for Tract RGV-MCS-1013 for the sum of \$42,600.00.

The United States and Defendants make this stipulation for an Order: (1) establishing the just compensation to be paid by the United States for the taking of a certain interests in Tract RGV-MCS-1013, which interests are more particularly described in Schedule "EE" in the Complaint and in the Declaration; (2) requesting that the Court grant possession of Tract RGV-MCS-1013 to the United States; (3) and distributing the stipulated just compensation for Tract RGV-MCS-1013 from the funds on deposit in the Registry of the Court. As grounds for this motion, the parties jointly state that:


1. The United States and Defendants, OSCAR GARZA and NORALINDA G. GARZA, have and do hereby confirm and agree that: (a) the full and just compensation payable by the United States for the taking of the Estates in Tract RGV-MCS-1013 shall be the total sum of \$42,600.00 in full satisfaction of any and all claims of whatsoever nature against the United States by reason of the institution and prosecution of this action.
2. Defendants, OSCAR GARZA and NORALINDA G. GARZA warrant that they were the owners of Subject Property on the dates of the respective takings; that they have the exclusive right to the compensation for the aforementioned tract herein described, excepting unpaid taxes and assessments, if any; and that no

other party is entitled to the same or any part thereof by reason of any part thereof by reason of any unrecorded agreement.

3. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the Estates in Subject Property, the Defendants, OSCAR GARZA and NORALINDA G. GARZA, shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate calculated pursuant to 40 U. S. Code 3116 (2006), from the date of receipt of the respective deposits by the Defendants to the date of repayment into the Registry of the Court.
4. On March 14, 2008, the United States deposited the amount of \$100.00 as estimated just compensation for member case 7:08-cv-022 and on November 6, 2008, the United States deposited the amount of \$13,100.00 as estimated just compensation for lead case 7:08-cv-319 for total deposits of \$13,200.00 in the consolidated cases. In full settlement of Defendants' claims, the United States has agreed to deposit the additional sum of \$29,400.00 into the Court's Registry, and the parties request that the Court enter its order directing the Clerk of the Court to disburse said stipulated just compensation of \$42,600.00 from the Registry of the Court, plus any accrued interest thereon payable to Defendants, OSCAR GARZA, NORIE GARZA and GARZA GARCIA, PLLC., upon deposit of the additional funds.

5. The parties shall be responsible for their own legal fees, costs, and expenses, including attorney's fees, consultants' fees, and any other expenses or costs; that they shall take no appeal from any rulings or judgments made by the Court in this action; and the parties consent to the entry of all orders and judgments necessary to effectuate this joint motion.
6. There being no outstanding taxes or assessments due or owing, Defendants shall be responsible for paying any taxes or assessments owed on the Subject Property through the dates of their respective takes.
7. Defendants, OSCAR GARZA and NORALINDA G. GARZA shall save and hold harmless the United States of America from all claims or liability resulting from any unrecorded leases or agreements affecting the Subject Property.
8. The parties request that the Court keep this case open on the Court's docket to resolve the last remaining title issues identified as a result of a title examination.


FOR DEFENDANT:



OSCAR GARZA



NORALINDA G. GARZA




**CARINA GARZA,
GARZA GARCIA, PLLC.,
Attorney for Defendants**

Respectfully submitted,

FOR PLAINTIFF:

KENNETH MAGIDSON
United States Attorney
Southern District of Texas

By: 

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CERTIFICATE OF SERVICE

I, E. Paxton Warner, Assistant United States Attorney for the Southern District of Texas,
do hereby certify that on May 26, 2015, I mailed a true
and correct copy of the foregoing document via regular mail to the all parties still remaining in
this case.

By: 

E. PAXTON WARNER
Assistant United States Attorney